

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

TOREY CORTEZ SMITH

PLAINTIFF

V.

CIVIL ACTION NO.: 3:16CV85-GHD-DAS

CULLY DAVENPORT, ET AL.

DEFENDANTS

ORDER

The plaintiff has filed a motion asking the court to order the defendants to preserve video dash camera evidence, incident reports, and all photographs related to the claims asserted in the instant § 1983 suit, claiming that such an order is necessary to ensure that evidence is not destroyed or damaged. The court notes that no defendant has yet appeared in this action, and the plaintiff was previously ordered not to submit discovery requests until the scheduling order is entered. *See* Doc. #16. Moreover, the court determines it is unnecessary to enter an order requiring the defendant to preserve evidence, as the defendants have a legal duty to preserve relevant evidence in this case and may be sanctioned for a breach of that duty that results in any significant alteration or destruction of evidence. *See, e.g., Ashton v. Knight Transp., Inc.*, 772 F. Supp. 2d 772, 800-801 (N.D. Tex. 2011). Accordingly, the instant motion [32] is **DISMISSED** without prejudice as moot.

SO ORDERED, this the 22nd day of July, 2016.

/s/ David A. Sanders
U.S. MAGISTRATE JUDGE